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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 19

Application Number: 09/619,134

Filing Date: July 18, 2000

Appellant(s): Day et al

Richard A. Neifeld
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/22/03.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

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(7) *Grouping of Claims*

The appellant's statement that the claims of the Groups on page 9, section G of the Appellant's Brief stand or fall together in the Groups as stated on page 9, section G is correct.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,321,208

BARNETT

11-2001

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 102-211 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (6,321,208). This rejection was set forth in prior Office Action, Paper No. 14.

Additionally, please note that claims 198 and 199 were cancelled After-Final.

Claims 102, 148, 194, 195, 196, 197, 198, 199, 200, 201, 202, 206, 210, 211: Barnett discloses a computer implemented method, system comprising the steps of:

transmitting a customer's customer identification from a kiosk to a computer (col 3, lines 35-45; col 4, lines 48-60; col 14, lines 15-30), said computer in communication with at least one database (1) containing incentive offer criteria associated with an identification of a product and (col 8, lines 14-25; col 11, lines 24-30; col 4, lines 40-49) (2) containing customer shopping

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habit data associated with said customer identification (col 8, lines 33-38; col 12, lines 37-63; col 13, lines 24-35);

determining incentive offer criteria satisfied by said customer's customer shopping habit data (col 8, lines 14-22; col 12, lines 37-63);

communicating to said kiosk an incentive offer for said product associated with said incentive offer criteria satisfied by said customer's customer shopping habit data (col 9, lines 45-67; col 12, lines 37-63);

inputting at a POS terminal of a retail store a customer identification in association with an identification of an item of a product being purchased by said customer (col 7, lines 35-55; col 4, lines 64-67; Fig. 1); and

providing said incentive to said customer when said customer purchases said product at said POS terminal (col 4, lines 64-67; Fig. 1).

Barnett does not explicitly disclose that the personal computer where the coupons are selected can be a kiosk. Barnett does disclose that the coupon obtainment device can be wired or wireless (col 13, lines 35-45; col 6, lines 35-45) and thus flexible as to its location. Barnett further discloses a kiosk where coupons can be selected and obtained (col 3, lines 35-45).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's coupon selection and obtainment device or computer can be a kiosk. One would have been motivated to do this because a kiosk is a convenient way of obtaining coupons.

Barnett further discloses the step of determining incentive offers for said customer based upon product stock availability (col 10, lines 31-38; col 10, lines 20-25) and that items in stock

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and coupons can be correlate along with customer shopping habit data (col 10, lines 22-25; col 10, lines 27-30; col 10, lines 44-47).

Barnett further discloses that a supervisor computer can transfer incentive information to a store level computer (Fig. 1).

Barnett further discloses displaying at said kiosk for said customer (1) broadcast special offers and (2) offers that depend upon whether said customer's customer shopping habit data meets said incentive offer criteria (col 10, lines 1-30; col 12, lines 37-62).

Barnett further discloses the steps of determining a number of product incentive offers for which said customer's shopping habit data satisfies said incentive offer criteria; ranking said product incentive offers for which said customer's shopping habit data satisfies said incentive offer criteria;

displaying, based upon said ranking, a predetermined number of the ranked incentive offers at said kiosk to said customer (col 9, lines 15-22; col 10, lines 1-30; col 12, lines 37-62; col 10, lines 1-16).

Claims 103, 104, 105, 106, 107, 149-153: Barnett discloses the method, system as in claims 102, 148. Barnett further discloses possessing information on the layout of the store (col 10, lines 30-37). Barnett discloses a kiosk that is separate from the POS terminal (Fig. 1). Barnett does not explicitly disclose the location of the kiosk. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's kiosk can be located in a location that is convenient to the user. The location of the kiosk in or near the store is a design decision which does not affect the method steps performed.

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One would have been motivated to locate the kiosk at a user convenient location so that the user's coupon obtainment is convenient.

Claim 108, 109, 110, 154, 155, 156: Barnett discloses the method, system according to claim 102, 148. Barnett further discloses the step of reading said customer identification into a customer interface of said kiosk (col 14, lines 16-20; col 14, lines 27-30). Barnett further discloses a dumb terminal and an interactive terminal (col 3, lines 35-45; col 8, lines 51-59).

Barnett does not explicitly disclose that the interface has a touch screen interface. However, Barnett does disclose a kiosk (col 3, lines 35-45) and a computer with an interface with a variety of inputs pointing mechanisms that are standard to computers (col 8, lines 51-59).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's interface with variety of input pointing mechanisms can utilize a touch screen. One would have been motivated to do this because touch screens are standard in the industry and allow a user convenient information input.

Claim 111, 112, 113, 157-159: Barnett discloses the method, system according to claim 102, 148. Barnett further discloses communicating to said kiosk an incentive offer for said product comprises printing said incentive offer (col 3, lines 35-40; col 7, lines 5-11). Barnett further discloses that the coupons can be printed at a variety of locations (col 2, lines 64-67; col 3, lines 35-40; col 3, lines 45-50).

Barnett further discloses that any type of printer can be utilized by the system (col 7, lines 5-11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's printer can be a thermal printer or a printer that can print at

a rate of at least 500 lines per minute. One would have been motivated to do this because effective printers are beneficial to a user's satisfaction.

Claim 114, 160: Barnett discloses the method, system according to claim 102, 148.

Barnett further discloses:

selecting an identification of a product on a kiosk (col 10, lines 1-47), wherein said computer is in communication with a database containing data in association with product identification (col 10, lines 30-47); and transmitting said product's information from said computer to said kiosk (col 10, lines 34-44; col 10, lines 30-47).

Barnett does not explicitly disclose that item information includes item price information.

However, Barnett discloses displaying and organizing product and shopping list item information at the kiosk (col 10, lines 30-47) and that the items can be sorted by a variety of categories (col 10, lines 31-40), and that manufacturers are aware of the prices of their and competitor's items (col 1, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's item information can include price information. One would have been motivated to do this because price information is obvious product item information.

Barnett does not explicitly disclose that the identified product is transmitted from the kiosk to a computer.

However, Barnett discloses transmitting the selected coupon information to the computer directly (col 4, lines 64-67). Barnett further discloses that the shopping list and coupon selection lists can be merged (col 10, lines 28-30).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's can transmit his item selection information to the computer from the kiosk when he transmits his coupon selection information. One would have been motivated to do this so that the shopping list can be readily available at the store where the consumer is going to shop in the same way that Barnett discloses that the coupons can be readily available (via electronic transmission) at the store where the consumer is going to shop.

Claim 115, 161: Barnett discloses the method, system according to claim 114, 148. Barnett does not explicitly disclose displaying product's price data at said kiosk.

However, Barnett discloses displaying product and shopping list item information at the kiosk (col 10, lines 30-47, col 11, lines 24-30) and that the items can be sorted by a variety of categories (col 10, lines 31-40) and that manufacturers are aware of the prices of their and competitor's items (col 1, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's item information can include price information. One would have been motivated to do this because price information is obvious product item information.

Claim 116, 162: Barnett discloses the method according to claim 102, 148 and further discloses that said POS terminal is spaced apart from said kiosk (Fig. 1).

Claim 117, 118, 163, 164: Barnett discloses the method, system according to claim 102, 148 and further discloses that said step of inputting comprises reading said customer identification at said POS terminal (col 11, lines 1-25), wherein said step of inputting comprises

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reading an identification of said product (col 11, lines 1-25; col 11, lines 39-44; col 7, lines 12-21).

Claim 119, 165: Barnett discloses the method, system according to claim 102, 148 and further discloses that said computer is a store level computer and further comprising the step of transmitting incentive offer criteria from a supervisory computer to said store computer (col 13, lines 1-10).

Claim 120, 121, 166, 167: Barnett discloses the method, system according to claim 102, 148 and further discloses the step of displaying at said kiosk a list of incentive offers for products associated with incentive offer criteria satisfied by said customer's customer shopping habit data, further comprising the step of displaying at said kiosk a list of all incentive offers for products associated with incentive offer criteria satisfied by said customer's customer shopping habit data (col 10, lines 1-30; col 12, lines 37-62).

Claim 122, 168: Barnett discloses the method, system according to claim 102, 148 and further discloses the step of displaying at said kiosk a list of incentive offers for products (1) associated with incentive offer criteria satisfied by said customer's customer shopping habit data and (2) that meet criteria independent of said customer's shopping habit data (col 10, lines 1-30; col 12, lines 37-62).

Claim 123, 124, 125, 169-171: Barnett discloses the method, system according to claim 102, 148 and further discloses the step of setting a time limit to said incentive offer (col 13, lines 18-20), wherein said time limit is on the order of a few hours, wherein said time limit is about 3 hours (col 13, lines 17-21). Barnett does not explicitly disclose that the time limit can be set to a few hours. However, Barnett discloses that the coupons can be adjusted to better fit certain

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conditions (col 12, lines 37-63; col 13, lines 24-35). Therefore, it is obvious that the time limit can be set to any favorable amount of time. One would have been motivated to do this so that coupons better incite customers to make immediate or timely purchases.

Claim 126, 127, 172, 173: Barnett discloses the method, system according to claim 102, 148, and further discloses the step of determining incentive offers for said customer based upon product stock availability (col 10, lines 31-38; col 10, lines 20-25), further comprising determining incentive offers for said customer based upon a quantity of said customer's customer shopping habit data associated with said customer's customer identification stored in said database (col 10, lines 1-30; col 12, lines 37-62).

Claim 128, 174: Barnett discloses the method, system according to claim 102, 148 and further discloses limiting a number of incentive offers communicated to said kiosk for said customer to a predetermined number (col 3, lines 44-52).

Claim 129, 175: Barnett discloses the method, system according to claim 102, 148 and further discloses displaying at said kiosk for said customer (1) broadcast special offers and (2) offers that depend upon whether said customer's customer shopping habit data meets said incentive offer criteria (col 10, lines 1-30; col 12, lines 37-62).

Claim 130, 176: Barnett discloses the method, system according to claim 102, 148 and further discloses displaying at said kiosk for said customer broadcast special offers to said customer only if less than a predetermined quantity of customer shopping habit data associated with said customer identification is stored in said database (col 9, lines 1-33; col 10, lines 1-30; col 12, lines 37-62).

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Claim 131, 177: Barnett discloses the method, system according to claim 122, 148 and further discloses the steps of determining a number of product incentive offers for which said customer's shopping habit data satisfies said incentive offer criteria; ranking said product incentive offers for which said customer's shopping habit data satisfies said incentive offer criteria; displaying, based upon said ranking, a predetermined number of the ranked incentive offers at said kiosk to said customer (col 9, lines 15-22; col 10, lines 1-30; col 12, lines 37-62; col 10, lines 1-16).

Claim 132, 133, 134, 178-180, 203-205, 207-209: Barnett discloses the method, system according to claim 131, 177, 202, 206. Barnett further discloses storing the value of incentives and that the incentives can be sorted by a variety of categories (col 10, lines 1-16; col 11, lines 24-30). Barnett further discloses that product information can be stored on the coupon (col 11, lines 24-30), that the product information comprises whether an item is available (col 10, lines 34-37), and that all forms of information about a store can be downloaded (col 10, lines 38-46) and that information about the items selected can be downloaded (col 10, lines 27-30; col 10, lines 34-36).

Barnett does not explicitly disclose that item information includes item price information.

However, Barnett discloses displaying and organizing product and shopping list item information at the kiosk (col 10, lines 30-47) and that the items can be sorted by a variety of categories (col 10, lines 31-40), and that manufacturers are aware of the prices of their and competitor's items (col 1, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's item information can include price information. One would have been motivated to do this because price information is obvious product item information.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to that Barnett can rank the incentives by the product information contained in the shopping list. One would have been motivated to do this so that the customer can organize his coupons how he prefers.

Claim 135, 181: Barnett discloses the method, system according to claim 102, 148 and further discloses the steps of determining a number of product incentive offers for which said customer's shopping habit data satisfies said incentive offer criteria; providing at said kiosk a first predetermined number of said incentive offers to said customer; and providing at said kiosk a second predetermined number of broadcast incentive offers to said customer (col 9, lines 15-22; col 10, lines 1-30; col 12, lines 37-62; col 10, lines 1-16).

Claim 136, 137, 182, 183: Barnett discloses the method, system according to claim 102, 148 and further discloses the step of downloading to said POS terminal a list containing identifications of all products for which incentive offer criteria associated with an identification of a product are stored in said database (col 9, lines 15-22; col 10, lines 1-30; col 12, lines 37-62; col 10, lines 1-16), further comprising the step of downloading to said POS terminal a list containing identifications of all products for which incentive offers are available to said customer (col 9, lines 15-22; col 10, lines 1-30; col 12, lines 37-62; col 10, lines 1-16).

Claim 138, 139, 140, 184-186: Barnett discloses the method, system according to claim 102, 148 and further discloses that customer shopping habit data comprises incentive receipt data for said customer's receipt of incentives, wherein said customer shopping habit data comprises a quantity of incentive offers for a product provided to said customer (col 11, lines 17-30; col 12, lines 37-62), wherein said customer shopping habit data is associated with an indication of a household associated with said customer (col 6, lines 49-51; col 12, lines 40-45).

Claim 141, 187: Barnett discloses the method, system according to claim 140, 186 and further discloses the step of providing the customer means to opt out of having incentive offer criteria being based upon household identification (col 6, lines 49-51). Barnett discloses that the incentives can be targeted to an individual user, therefore, it is inherent that the user can select whether to offer only an individual user information or household information.

Claim 142, 188: Barnett discloses the method, system according to claim 102, 148 and further discloses that said incentive offer criteria associated with an identification of a product comprises a time after which said incentive offer is no longer available (col 13, lines 17-21).

Claim 143, 189: Barnett discloses the method, system according to claim 102, 148 and further discloses the steps of classifying products by category (col 10, lines 17-46) and that item and manufacturer information can be tracked (col 10, lines 34-46; col 11, lines 26-30). Barnett further discloses that coupon packages can be assembled and varied based on a wide variety of criteria limiting incentive offers for products in a category to one manufacturer (col 12, lines 37-62).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's category information can include manufacturer as a

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category. One would have been motivated to do this because manufacturer is an obvious piece of item information.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's wide variety of coupon packages can include coupons from just one manufacturer in one category. One would have been motivated to do this to encourage the user to try a new or different brand (col 1, lines 50-55).

Claim 144, 190: Barnett discloses the method, system according to claim 102, 148. Barnett further discloses that user shopping habits at a store can be tracked and recorded (col 10, lines 35-47), that the location of processes and computers can be flexibly placed (col 13, lines 1-10; Fig. 1), that consumer demographics, habits, and history can be tracked and analyzed (col 12, lines 37-63), that the customer selects a specific store when he creates a shopping list (col 10, lines 42-45).

Barnett does not explicitly disclose that the shopping list information is transmitted from the kiosk to the computer.

However, Barnett discloses transmitting the selected coupon information to the computer directly (col 4, lines 64-67). Barnett further discloses that the shopping list and coupon selection lists can be merged (col 10, lines 28-30).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's can transmit his item selection information to the computer from the kiosk when he transmits his coupon selection information. One would have been motivated to do this so that the shopping list information can be readily available at the store where the consumer is going to shop in the same way that Barnett discloses that the

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coupons can be readily available (via electronic transmission) at the store where the consumer is going to shop.

Claim 145, 146, 147, 191-193: Barnett discloses the method, system according to claim 102, 148. Barnett further discloses that coupons can be issued to entice a first time customer (col 1, lines 50-55), that a consumer use of coupons can be tracked and the coupons sent to the user can be varied in response to this tracking (col 12, lines 50-63), and that the value of a coupon can be varied depending on the demographics and usage habits of a user (col 13, lines 24-35).

Barnett further discloses that the purchases made by the user utilizing a coupon can be tracked (col 12, lines 30-36), that the coupon redemption at time of purchase patterns over time can be tracked (col 12, lines 61-64), and that the customer's buying habits in general can be tracked (col 13, lines 27-32).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett can vary the value of a coupon to entice a first time customer or that a coupon can be varied based on time since a customer's last purchase. One would have been motivated to do this so that a customer will try a product for the first time and possibly then become a regular user or so that an idle customer can be enticed to make a purchase (col 1, lines 53-55).

(11) *Response to Argument*

Examiner notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art.

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Examiner further notes that Barnett was utilized as a 103(a) prior art rejection combining Barnett with Barnett. Barnett was combined with itself for the 103(a) rejection because not all features are explicitly stated by Barnett as being in the combinations presented by the Applicant's claims. However, all features of the Applicant's invention are present in Barnett and would have been obvious to one skilled in the art at the time of invention that the features can be combined. Particularly, the Background of the Invention section of Barnett's disclosure discloses many features that would have been obvious to one skilled in the art that can be combined with the features presented in the rest of Barnett's disclosure.

Examiner further notes that once it is established in a rejection of the independent claims that Barnett does disclose a kiosk, the arguments concerning the utilization of a kiosk are not repeated for the dependent claims. Rather, the information for the rejection of a dependent claim includes the immediate rejection of the dependent claim as well as the rejections stated for all the claims upon which that claim was dependent. Therefore, when it is established for the rejection of an independent claim that Barnett does disclose a kiosk, all subsequent dependent claims that state a kiosk also have that feature of a kiosk rejected because of the independent claim upon which the dependent claim is based.

Examiner further notes that Barnett's disclosed functionality is highly flexible in terms of where each aspect of the functionality is performed. This assertion is supported by Barnett's disclosure that,

"In accordance with the present invention, the marketing analysis, coupon packaging, and coupon package distribution functions carried out by the coupon distributor 16 may be carried out at the central data repository, i.e. Internet web site. Further, the coupon redemption and user redemption information processing functions individually carried out by the

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coupon redemption center 13 and the individual retail stores 10 may be combined into a single redemption center, as shown by the dotted line in FIG. 1. The physical layout of the functions within the system of the present invention is a matter of practicality and choice of the systems designer and does not impact the utility of the present invention." (col 12, line 65-col 13, line 10; Fig. 1).

Hence, the functionality of Barnett's invention is highly flexible in terms of the hardware configurations that can be utilized to manifest the functions of Barnett's invention.

On page 12 of the Applicant's Appeal Brief dated 12/22/03, Applicant states that "First, Barnett does not disclose structure corresponding to the "kiosk" defined in this application."

However, Barnett discloses this feature of the utilization of a kiosk.

Barnett discloses, "The electronic coupon data could also be routed via the data communications interface 20 to a retail store where the user will be shopping, where the coupon data is held in a buffer pending purchase by the user of the matching product." (col 11, lines 39-44)

and that,

"The kiosk is linked to the manufacturers in order to obtain specific coupon information. The consumer selects the desired coupon at the kiosk, and the coupon is printed and dispensed. The consumer presents the coupon at the register, where the discount is applied and the discount transaction data is transmitted back to the manufacturer." (col 3, lines 37-44)

and that,

"Lemon et al. discloses a system with remotely located coupon printing stations capable of limiting the number of coupons printed in a given time period. Each coupon station has a display for indicating the available coupons, selection means to allow the consumer to choose the desired coupon, and a coupon printer. The system disables display of a particular coupon when a preselected coupon limit has been reached." (col 3, lines 45-52)

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Barnett further discloses a remote computer with printer:

"In accordance with these and other objects, provided is a system for distributing and generating at a remote site product redemption coupons comprising a centrally located repository of electronically stored product redemption coupon data, transmission means operatively associated with said centrally located repository for providing data communication between said repository and a plurality of remote user computers, and a remote user computer operatively associated with said transmission means." (col 4, lines 40-48) and "The present invention additionally comprises a printer for printing product redemption coupons from the printable coupon data stored in the coupon output buffer." (col 4, lines 60-65)

Barnett further discloses that the remote computer can be located anywhere,

"In addition, it is contemplated that the electronic coupon data distribution may be carried out by connection to any readily accessible Internet site such as the World Wide Web." (col 6, lines 39-43)

and that the computer can be any computer that can access the central computer,

"Thus, any centrally located computer system which is accessible to the public by any transmission means is contemplated as being within the scope of this invention." (col 6, lines 47-50)

Additionally, Barnett further discloses a kiosk with printer and a station with printer that is functionally equivalent to a kiosk.

Hence, Barnett's remote computer is functionally equivalent to a kiosk. Barnett further discloses a computer with printer that is functionally equivalent to a kiosk, that the computer can be located anywhere, that the computer can be any computer that can access a central computer. Hence, since Barnett already discloses a kiosk in the Background of the Invention, it is obvious that a kiosk can be a manifestation of Barnett's remote computer accessible by a user.

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Therefore, since Barnett discloses transmitting the coupon information to the store and Barnett discloses a kiosk and a station which is functionally equivalent to a kiosk, it would have been obvious to Barnett to utilize a kiosk. Barnett would have been motivated to utilize a kiosk because it provides a place for the users to view the coupons that have been forwarded to the store.

Additionally, the Microsoft Press Computer Dictionary Third Edition defines personal computer as, "A computer designed for use by one person at a time. Personal computers do not need to share the processing, disk, and printer resources of another computer. IBM PC-compatible computers and Apple Macintoshes are both examples of personal computers."

Hence, a personal computer does not need to be in the private home of a user or need to be privately owned by a user. A personal computer is a type of computer and can be located anywhere and perform a wide variety of functions.

Additionally, the Microsoft Press Computer Dictionary Third Edition defines kiosk as, "A freestanding computer or terminal that provides information to the public, usually through a multimedia display."

Hence, a kiosk can utilize a personal computer as the computer that performs the functions of the kiosk.

Additionally, the online Merriam-Webster Dictionary at www.m-w.com defines kiosk as:

"1 an open summerhouse or pavilion

2 a small structure with one or more open sides that is used to vend merchandise (as newspapers) or services (as film developing)".

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Additionally please note, as stated above, that Barnett disclosed that the location of the performance of the functionality of the invention is flexible and can be performed in a wide array of hardware configurations.

Hence, Barnett's disclosure explicitly discloses a kiosk as well as a personal computer that is used to vend services.

Hence, since Barnett discloses a kiosk and Barnett discloses a computer performing the functions of the Applicant's invention, it would be obvious to one skilled in the art at the time of invention that Barnett's functions of the personal computer can be performed at the kiosk. One would have been motivated to utilize the kiosk that Barnett discloses in order to provide a place for the users to view the coupons that have been forwarded to the store.

On page 19 of the Applicant's Appeal, Applicant states Barnett does not disclose "transmitting a customer's identification from a kiosk to a computer".

However, Barnett discloses this feature.

Examiner notes, as explained and stated in the Response to Arguments above, that the computer utilized by the customer in Barnett's disclosure is functionally equivalent to the Applicant's kiosk. Hence, the Examiner will address the features of how the Applicant's kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses,

"When the user desires to initially register for the electronic coupon distribution service, he selects the join service function button 62 which initiates a dialog with the online service provider 2 in order to request certain demographic data from the user which will be used to target specific coupon data

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packages for subsequent downloading." (col 7, line 61-col 8, line 1)

and that,

"Alternatively, the system may enable the user to transmit electronically the printable coupon data from the coupon output buffer to the centrally located repository or directly to the retailer for electronic coupon redemption." (col 4, lines 64-67)

and that,

"In addition to the usual coupon information found in prior art coupons (e.g. redemption amount, company and product name, expiration date, etc.), the coupons 18 of the preferred embodiment of the present invention contain user-specific data in the form of a unique user bar code 90, as shown graphically in FIG. 5. The user bar code 90 is encoded with user-specific information such as the user name and/or other unique identification criteria such as a social security number or online service address." (col 7, lines 22-30)

and that,

"Thus, the printable coupon data generation routine 32d combines all this information and generates a record indicative of the unique coupon to be printed. This record is temporarily stored in the output buffer 28, where it is subsequently sent to the printer 8 for printing. In the alternative, the coupon may be redeemed electronically by sending the coupon data in the output buffer via the data communications interface 20 back to the online service provider 2." (col 11, lines 29-37)

Thus, the user transmits registration information to the computer and the users also transmit user identification information to the computer via the transmittal of the unique user identifying coupon.

On page 12 of the Applicant's Appeal Brief dated 12/22/03, Applicant states that "Second, Barnett does not disclose incentive offer criteria stored in association with identification of a product."

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However, Barnett discloses this feature.

Barnett discloses,

"It may be further determined that users who select, print and redeem dog food coupons of Brand X will get coupons issued by Brand Y, or will get only low value coupons since they are already dog food coupon users, etc. That is, depending on the marketing and targeting criteria and objectives, the analysis means will generate coupon packages as desired." (col 12, lines 44-50)

and that,

"The items on the list are compared against coupon data stored in the coupon database 30 and the user is informed of their existence. The user may then print out those coupons along with the shopping list." (col 10, lines 22-25)

and that,

"That is, the coupons 18 are presented to a product checkout station 11 along with the associated products for purchase, and the discount amount shown on the coupon 18 is credited to the consumer at the point of sale." (col 7, lines 13-17)

and that,

"In addition to the usual coupon information found in prior art coupons (e.g. redemption amount, company and product name, expiration date, etc.), the coupons 18 of the preferred embodiment of the present invention contain user-specific data in the form of a unique user bar code 90, as shown graphically in FIG. 5." (col 7, lines 21-27)

and that,

"The coupon packages file 40 comprises electronic coupon data and other types of advertising materials supplied by the various coupon issuers 14 through the coupon distributor 16. Individual users' coupon data packages are drawn from this file based on demographic data and historic buying profiles stored in the demographic data file 42." (col 8, lines 14-20)

Additionally, Barnett's Figure 5 discloses an incentive offer with criteria in the form of expiration date (Expires 3/31/95) and the amount of discount (Save 50 cents) and that the incentive offer is associated with a product (Kariba Farms Sun Dried Mangoes).

Therefore, Barnett clearly discloses incentive offer criteria stored in association with identification of a product.

Additionally, the online Merriam-Webster Dictionary at www.m-w.com presents the following definitions for criteria:

"1 a standard on which a judgment or decision may be based

2 a characterizing mark or trait".

Barnett's disclosure clearly and explicitly discloses incentive offer characterizing marks or traits that are associated with the identification of a product.

On page 25 of the Applicant's Appeal, Applicant states that Barnett does not disclose "Transmitting Incentive Criteria to a Store Level Computer and Locally Determining the Incentives" and on page 45 the Applicant states that Barnett does not disclose, "A Store Level Computer and Transmitting Incentive Offer Criteria from a Supervisor Computer to the Store Computer."

However, Barnett discloses these features.

Barnett discloses, "In accordance with the present invention, the marketing analysis, coupon packaging, and coupon package distribution functions carried out by the coupon distributor 16 may be carried out at the central data repository, i.e. Internet web site. Further, the coupon redemption and user redemption information processing functions individually carried out by the coupon redemption center 13 and the individual retail stores 10 may be combined into a single redemption center, as shown by the dotted line in FIG. 1. The physical layout of the functions within the system of the present invention is a matter a

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practicality and choice of the systems designer and does not impact the utility of the present invention." (col 12, line 65-col 13, line 10; Fig. 1)

Hence, Barnett discloses that incentive criteria can be transmitted to a store level computer and locally determining the incentives.

On page 26 of the Applicant's Appeal, Applicant states that Barnett does not disclose "at least means for sending information from the customized offer list to at least one check-out, means for presenting customized special offers to customers".

However, Barnett discloses this feature.

Barnett discloses, "Check-out coupons are printed at the check-out by a printer installed at the cash register. A computer analyzes the purchases made by each customer, and can print competitor's coupons or other coupons related to items in the current purchase. This system has a coupon redemption rate of approximately 9%." (col 2, lines 63-col 3, line 2)

and that,

"The electronic coupon data could also be routed via the data communications interface 20 to a retail store where the user will be shopping, where the coupon data is held in a buffer pending purchase by the user of the matching product." (col 11, lines 39-44)

On page 28 of the Applicant's Appeal Brief, Applicant states that "Barnett does not disclose a Supervisory Computer" or that Barnett does not disclose "a supervisor computer networked to store level computers, where the supervisory computer periodically downloads special offers to the store level computers".

However, Barnett discloses this feature.

Barnett discloses, "Pruchniki discloses an electronic paperless

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coupon system which obviates the need for a paper coupon in order to save printing, processing and clearinghouse costs as well as eliminating counterfeiting. Coupon redemption information is transmitted from a central system to local retailers, where coupon signs are placed near the related item. The discount is automatically applied at the point of sale without the need for the consumer to present a paper coupon" (col 3, lines 27-35)

and that,

"the electronic coupon distribution system of the preferred embodiment comprises a central located repository of electronically stored coupon data, which in the preferred embodiment is an online service provider 2." (Col 6, lines 30-35).

Barnett's central repository is functionally equivalent to the user's Supervisory computer.

On page 30-31 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose a kiosk "at or near the store" or "at least one additional kiosk" or a kiosk with a "booth or housing".

However, Barnett discloses these features.

Examiner notes, as explained and stated in the Response to Arguments of page 29 above, that the computer utilized by the customer in Barnett's disclosure is functionally equivalent to the Applicant's kiosk. Hence, the Examiner will address the features of how the Applicant's kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses, "The electronic coupon data could also be routed via the data communications interface 20 to a retail store where the user will be shopping, where the coupon data is held in a buffer pending purchase by the user of the matching product." (col 11, lines 39-44)

and that,

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"The kiosk is linked to the manufacturers in order to obtain specific coupon information. The consumer selects the desired coupon at the kiosk, and the coupon is printed and dispensed. The consumer presents the coupon at the register, where the discount is applied and the discount transaction data is transmitted back to the manufacturer." (col 3, lines 37-44)

It is inherent to a kiosk that it has a "booth or housing". Since Barnett discloses a kiosk and Barnett discloses transmitting the coupon information to the store, it is obvious that the kiosk can be at or near the store. The number of kiosks at the store is a design decision that is irrelevant to the business method disclosed. A grocery store obviously attempts to have an appropriate number of aisles relevant to the amount of customer's it services. Likewise, a store attempts to have an appropriate number of kiosks depending upon customer utilization and wait time for the kiosk.

On page 33-34 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "reading a customer identification into a customer interface of a kiosk".

However, Barnett discloses this feature.

Examiner notes, as explained and stated in the Response to Arguments of page 29 above, that the computer utilized by the customer in Barnett's disclosure is functionally equivalent to the Applicant's kiosk. Hence, the Examiner will address the features of how the Applicant's kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses,

"When the user desires to initially register for the electronic coupon distribution service, he selects the join service function button 62 which initiates a dialog with the online service provider 2 in order to request certain demographic data from the user which will be used to target specific coupon data

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packages for subsequent downloading." (col 7, line 61-col 8, line 1)

On page 34-35 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "a dumb terminal and interactive terminal" or a "touch screen interface".

However, Barnett discloses this feature.

Barnett discloses,

"the remote personal computer 6 of the preferred embodiment comprises a data communications interface 20 (such as a modem) for connecting the computer to the data link 4 (such as a PSTN), a user input device 22 such as a keyboard and mouse or other type pointing device, a display 24, and a processor 26, all of which are common to personal computers and are well known in the art." (col 8, line 52-58)

A touch screen interface is an obvious form of display and user input device. Barnett clearly discloses an interactive terminal as stated above. Barnett also discloses a "dumb terminal",

"Lemon et al. discloses a system with remotely located coupon printing stations capable of limiting the number of coupons printed in a given time period. Each coupon station has a display for indicating the available coupons, selection means to allow the consumer to choose the desired coupon, and a coupon printer. The system disables display of a particular coupon when a preselected coupon limit has been reached." (col 3, lines 45-52)

On page 37 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "printing at a kiosk" or a "thermal printer" or "printing at 500 lines per minute".

However, Barnett discloses this feature.

Examiner notes, as explained and stated in the Response to Arguments of page 29 above, that the computer utilized by the customer in Barnett's disclosure is functionally equivalent to

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the Applicant's kiosk. Hence, the Examiner will address the features of how the Applicant's kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses,

"The remote personal computer 6 has connected thereto a printer 8, which may be any type of computer printer capable of printing graphics." (col 7, lines 5-8)

and that,

"Check-out coupons are printed at the check-out by a printer installed at the cash register." (col 2, lines 64-65)

and that,

"Spector teaches a closed-loop coupon system which consists of a kiosk type printer station located at a retail store. The kiosk is linked to the manufacturers in order to obtain specific coupon information. The consumer selects the desired coupon at the kiosk, and the coupon is printed and dispensed. The consumer presents the coupon at the register, where the discount is applied and the discount transaction data is transmitted back to the manufacturer." (col 3, lines 35-44)

Therefore, Barnett discloses any type of printer and that the printer performs functions that necessitate speed such as printing in a checkout line. The actual type of printer does not effect the business method disclosed.

On page 42 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose displaying a product's price data at a kiosk.

Examiner notes that a 35 U.S.C. 103(a) rejection was made for this claim.

Examiner stated that Barnett does not explicitly disclose displaying product's price data at said kiosk.

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However, Barnett discloses displaying product and shopping list item information at the kiosk (col 10, lines 30-47, col 11, lines 24-30) and that the items can be sorted by a variety of categories (col 10, lines 31-40) and that manufacturers are aware of the prices of their and competitor's items (col 1, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett's item information can include price information. One would have been motivated to do this because price information is obvious product item information.

On page 43 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose a POS terminal spaced apart from a kiosk.

However, Barnett discloses these features,

"The kiosk is linked to the manufacturers in order to obtain specific coupon information. The consumer selects the desired coupon at the kiosk, and the coupon is printed and dispensed. The consumer presents the coupon at the register, where the discount is applied and the discount transaction data is transmitted back to the manufacturer." (col 3, lines 37-45)

On page 43-44 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose inputting comprising reading a customer identification at a POS terminal or inputting comprising reading an identification of a product.

However, Barnett discloses this feature.

Barnett discloses,

"The printed coupons 18 are used in the normal fashion by a consumer when shopping at a desired retail store 10. That is, the coupons 18 are presented to a product checkout station 11

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along with the associated products for purchase, and the discount amount shown on the coupon 18 is credited to the consumer at the point of sale. The redeemed coupons 18 are transmitted to a coupon redemption center 13 where they are electronically read, and user-specific data is stored in a coupon redemption database 12." (col 7, lines 11-20)

and that,

"The user identification bar code number is a unique number assigned to that user, e.g. his social security number or online identification number. This number will be encoded by the printable coupon data generation routine 32d and printed as a bar code 90 on each coupon 18 printed for the particular user." (col 11, lines 2-8)

and that,

"However, in accordance with the present invention, each coupon printed by a user is unique, and the scanning of a coupon presented for redemption will be stored at the coupon redemption center." (col 11, lines 17-21)

On page 41 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "transmitting identification of a product from a kiosk to a computer".

However, Barnett discloses this feature.

Examiner notes, as explained and stated in the Response to Arguments of page 29 above, that the computer utilized by the customer in Barnett's disclosure is functionally equivalent to the Applicant's kiosk. Hence, the Examiner will address the features of how the Applicant's kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses,

"Alternatively, the system may enable the user to transmit

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electronically the printable coupon data from the coupon output buffer to the centrally located repository or directly to the retailer for electronic coupon redemption.” (col 4, lines 64-67)

Barnett’s coupon output buffer is functionally equivalent to the Applicant’s ‘kiosk’, as explained above, and the centrally located repository is functionally equivalent to the Applicant’s ‘computer’.

On page 47 of the Applicant’s Appeal Brief, Applicant states that Barnett does not disclose “displaying at a kiosk a list of incentive products associated with incentive offer criteria satisfied by a customer’s shopping habit data” and “that meet criteria independent of a customer’s shopping habit data”.

However, Barnett discloses this feature.

Examiner notes, as explained and stated in the Response to Arguments above, that the computer utilized by the customer in Barnett’s disclosure is functionally equivalent to the Applicant’s kiosk. Hence, the Examiner will address the features of how the Applicant’s kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses,

“The coupon packages file 40 comprises electronic coupon data and other types of advertising materials supplied by the various coupon issuers 14 through the coupon distributor 16. Individual users’ coupon data packages are drawn from this file based on demographic data and historic buying profiles stored in the demographic data file 42. Advertisements may consist of graphics, text, recipes, competitions or other inducements or a combination thereof.

(12) After joining the electronic coupon service, the user can order a package of electronic coupons from the online service provider 2 by selecting the download coupon function button 64. “ (col 8, lines 14-26).

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"The items on the list are compared against coupon data stored in the coupon database 30 and the user is informed of their existence." (col 10, lines 23-25)

"Thus, in either fashion, the user's shopping list generation and coupon "clipping" tasks are conveniently merged in a timesaving manner." (col 10, lines 28-30)
(col)

Barnett discloses utilizing both demographic data and customer shopping habit data in order to present incentive products.

On page 52, 84 of the Applicant's Appeal, Applicant states that Barnett does not disclose "Setting a Time Limit to an Incentive Offer".

However, Barnett discloses this feature.

Barnett discloses,

"In addition, the coupon deletion routine 32e allows for automatic deletion of expired coupons by periodically checking the expiration date field of each coupon against a real-time clock found in the computer 6." (col 11, lines 50-53)

and that,

"The availability of the coupon could be time-sensitive, which would provide further incentive to the user to use the system in a prompt and efficient manner." (col 13, lines 17-20)

Additionally, the online Merriam-Webster Dictionary at www.m-w.com presents several definitions for time.

A few of the definitions presented by the Merriam-Webster Dictionary are:

"a period during which something is used or available for use; the measured or measurable period during which an action, process, or condition exists or continues; an appointed, fixed, or

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customary moment or hour for something to happen, begin, or end; finite as contrasted with infinite duration.”

Therefore, Barnett’s disclosure that the coupon be time-sensitive and include an expiration date can include any fixed period of time as a time limit for the incentive offer.

On page 56 of the Applicant’s Appeal Brief, Applicant states that Barnett does not disclose “determining incentive offers for a customer based upon product stock availability”.

However, Barnett discloses this feature.

Barnett discloses,

“Thus, data regarding the layout of the store, the food items available at the store, and the like, are used by the list generation routine 32g in order to organize the purchase items accordingly.” (col 10, lines 34-38)

and that,

“Manufacturers also find coupons can shore up flagging sales, help reduce excess inventory or win back consumers' brand loyalty,” (col 1, lines 55-57)

On page 57 of the Applicant’s Appeal Brief, Applicant states that Barnett does not disclose “Determining Incentive Offers for a Customer Based Upon a Quantity of a Customer’s Customer Shopping Habit Data Associated with a Customer’s Customer Identification Stored in a Database.”

However, Barnett discloses this feature.

Barnett discloses,

“Von Kohorn describes a television-based coupon reception system wherein coupon information is transmitted along with program information to a broadcast audience. A member of the audience can generate a coupon for subsequent redemption at a store.” (col 3, lines 12-15)

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and that,

"That is, it may be determined by the analysis means 17 that users with dogs in their household (which is known by the demographic responses) will get a certain package comprising dog food coupons. It may be further determined that users who select, print and redeem dog food coupons of Brand X will get coupons issued by Brand Y, or will get only low value coupons since they are already dog food coupon users, etc. That is, depending on the marketing and targeting criteria and objectives, the analysis means will generate coupon packages as desired." (col 12, lines 41-50)

Therefore, Barnett discloses that depending upon the quantity of customer shopping habit data an appropriately broad or specific special offer is issued.

On page 58 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose, "limiting a number of incentive offers communicated to a kiosk for a customer to a predetermined number."

However, Barnett discloses these features,

"Lemon et al. discloses a system with remotely located coupon printing stations capable of limiting the number of coupons printed in a given time period. . .The system disables display of a particular coupon when a preselected coupon limit has been reached." (col 3, lines 45-52)

On page 66 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "determining a number of product incentive offers for which a customer's shopping habit data satisfies an incentive offer criteria, ranking a product incentive offers for which a . . . and displaying, a predetermined numbers of the ranked incentive offers at the kiosk to the customer".

However, Barnett discloses this feature.

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Examiner notes, as explained and stated in the Response to Arguments above, that the computer utilized by the customer in Barnett's disclosure is functionally equivalent to the Applicant's kiosk. Hence, the Examiner will address the features of how the Applicant's kiosk is being utilized, not that it is a kiosk being utilized. The utilization of a kiosk was already addressed above.

Barnett discloses,

"The coupon packages file 40 comprises electronic coupon data and other types of advertising materials supplied by the various coupon issuers 14 through the coupon distributor 16. Individual users' coupon data packages are drawn from this file based on demographic data and historic buying profiles stored in the demographic data file 42." (col 8, lines 14-20)

and that,

"sorted coupon data 30c, which is selected coupon data sorted in accordance with a particular set of criteria" (col 9, lines 7-10)

and that,

"the user may view the coupons selected (from the selected coupon data file 30b), and may choose any of them for printing. Further, a sortation option is provided which logically sorts, by category and subcategory, the coupons stored." (col 10, lines 3-8)

Additionally, the online Merriam-Webster Dictionary at www.m-w.com defines sort as:

"to put in a certain place or rank according to kind, class, or nature."

Therefore, Barnett discloses the features of the Applicant's claims as it is inherent to sorting that it involves ranking.

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On page 74 and page 75 of the Applicant's Appeal, Applicant states that Barnett does not disclose "downloading to a POS terminal a list containing identification of all products for which incentive offer criteria associated with an identification of a product stored in a database " or "downloading to a POS terminal a list containing identification of all products for which incentive offers are available to a customer".

However, Barnett discloses this feature.

Barnett discloses,

"This routine will allow the user to generate a list from a menu presented on the screen whichever items the user desires to purchase, and the user can store and/or print this list as desired. The items on the list are compared against coupon data stored in the coupon database 30 and the user is informed of their existence. The user may then print out those coupons along with the shopping list. Alternatively, the user may select certain coupons for printing, and the item associated therewith is automatically placed on the shopping list. Thus, in either fashion, the user's shopping list generation and coupon "clipping" tasks are conveniently merged in a timesaving manner." (col 10, lines 19-30)

On page 78 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose, "Customer Shopping Habit Data Comprising Incentive Receipt Data for a Customer's Receipt of Incentives."

However, Barnett discloses these features,

"The coupon upload routine 32cc is called automatically and without user request whenever the user requests a coupon download package from the online service provider 2. A record is kept by the upload routine 32cc indicative of each coupon selected by the user and each coupon printed by the user. This record is sent to the demographic data file 42 in the online service provider 2, and is used for marketing analysis along with data regarding which coupons were actually redeemed, which

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information is obtained from the manufacturers' redemption agency or center." (col 10, lines 47-57)

On page 80, 81 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "customer shopping habit data comprising a quantity of incentive offers for a product provided to a customer " or "customer shopping habit data associated with an indication of a household associated with a customer".

However, Barnett discloses this feature.

Barnett discloses,

"It may be further determined that users who select, print and redeem dog food coupons of Brand X will get coupons issued by Brand Y, or will get only low value coupons since they are already dog food coupon users, etc. That is, depending on the marketing and targeting criteria and objectives , the analysis means will generate coupon packages as desired. "(col 12, lines 44-50)

and that,

"The database 11 also stores information from the coupon redemption center 13 regarding the coupons actually redeemed by the user." (col 12, lines 31-34)

and that,

"That is, it may be determined by the analysis means 17 that users with dogs in their household (which is known by the demographic responses) will get a certain package comprising dog food coupons." (col 12, lines 41-45)

Hence, Barnett is providing incentive offers depending on how many times a user has utilized a coupon for a specific product and Barnett is providing special offers depending upon the characteristic of a household.

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On page 82 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose the customer having means to opt out of an incentive offer being based upon household identification.

However, Barnett discloses that the users can have an account that is for an individual user or for a household (col 6, lines 49-51). Therefore, it is inherent that the user can select whether to offer only an individual user information or household information. Hence, the user controls whether a individual or a household is targeted. When the user provides individual information, rather than household information, it is inherent that the user opts out of providing household information.

On page 87 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose classifying products by category and manufacturer, and limiting incentive offers for products in a category to one manufacturer.

However, Barnett discloses,

"The information stored in the database 11 is input to the marketing and targeting analysis means 17, which carries out the function of analyzing the aforementioned information in a manner known in the art to arrive at different coupon packages. That is, it may be determined by the analysis means 17 that users with dogs in their household (which is known by the demographic responses) will get a certain package comprising dog food coupons. It may be further determined that users who select, print and redeem dog food coupons of Brand X will get coupons issued by Brand Y, or will get only low value coupons since they are already dog food coupon users, etc. That is, depending on the marketing and targeting criteria and objectives, the analysis means will generate coupon packages as desired." (col 12, lines 36-50)

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On page 90 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose that customer shopping habit data includes store identification.

However, Barnett discloses,

"In particular, information regarding the redemption amount and the redeeming store 10 is forwarded to the particular coupon issuer 14 named on the coupon 18, which then credits the redeeming store 10 with the total amount of discounts given. Of particular value in the present invention is the distribution of user-specific data to the coupon distribution center 16, which collates such user information and performs marketing analysis via a marketing analysis means 17 in order to compile subsequent coupon packages targeted specifically at certain user categories." (col 7, lines 40-50)

On page 92 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose depending a value of an incentive offer provided at a kiosk upon whether a customer received a prior offer.

However, Barnett discloses, "

The coupon management program also can vary the redemption value of any coupon already downloaded to the user's computer 6 without the need for specific user interaction. A coupon variation routine 32f is called which aids in this task. Again, any time that a user initiates a download of coupon data, the on-line service provider 2 can update redemption amounts for coupons whose issuers have decided to change the discount amount." (col 12, lines 6-14)

On page 93, 94 of the Applicant's Appeal Brief, Applicant states that Barnett does not disclose "a value that increases if a prior incentive offer to a customer was not accepted " or that "the claimed incentive criteria depend upon time since a customer's last purchase".

However, Barnett discloses this feature.

Barnett discloses,

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"The amount of redemption discount included with a coupon downloaded to a user may be varied depending on certain demographic information that the system has about the user. For instance, the system may provide a certain value for known users of a brand (which information it will obtain by demographic inquiry or through previous redemptions in the system), and it may provide a higher discount in order to provide an incentive to users of a competitive brand. The ability to vary the value of a discount offer in accordance with such demographic and usage data is a unique advantage offered by the system of the present invention and heretofore unavailable in the prior art." (col 13, lines 24-35)

and that,

"The coupon management program also can vary the redemption value of any coupon already downloaded to the user's computer 6 without the need for specific user interaction. A coupon variation routine 32f is called which aids in this task. Again, any time that a user initiates a download of coupon data, the on-line service provider 2 can update redemption amounts for coupons whose issuers have decided to change the discount amount." (col 12, lines 6-14)

and that,

"Thus, the coupon selection, printing and redemption habits may be analyzed over a time period and used to determine the subsequent targeted packages." (col 12, lines 59-63)

and that,

"The availability of the coupon could be time-sensitive, which would provide further incentive to the user to use the system in a prompt and efficient manner." (col 13, lines 17-20)

and that,

"The method of claim 1 wherein the user profile comprises prior coupon usage data associated with the user." (col 14, lines 58-60).

Therefore, it is implied by Barnett that he can vary the value of coupons depending upon the prior use of a coupon by a user or by the amount of time elapsed of the use of a coupon.

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Hence, when one considers the entire specification of Barnett, including the Background of the Invention, the Applicant's invention as presented in the Applicant's claims presents nothing new and non-obvious over Barnett. It would have been obvious to one skilled in the art at the time of the Applicant's invention that the features of the entire specification of Barnett, including the Background of the Invention, can be combined in different combinations, in addition to the combinations specifically stated in Barnett, in order to render a range of coupon systems that Barnett states and implies are possible. Therefore, the Applicant presents nothing new and non-obvious over Barnett.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,


AD

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